

Civil Action No. 5:17-CV-01216-CLS

⁴ Doc. no. 41.

Plaintiff's Complaint."⁵ The court shares plaintiff's confusion as to why Capital One filed the reply brief *after* the court had already granted its motion for extension of time to file a responsive pleading.⁶ Even so, there is no reason for the reply brief to be stricken from the record. Accordingly, plaintiff's motion to quash is DENIED.

Plaintiff's "Motion for Re-Hearing to the Chief Judge: Karon O Bowdre on Motion for Recusal and/or Disqualification" requests for review of United States Magistrate Judge Herman N. Johnson, Jr.'s August 29, 2017 order denying plaintiff's motion for recusal.⁷ After that order was entered, the case was reassigned to the undersigned judge as a result of the parties' failure to consent to the exercise of dispositive jurisdiction by a Magistrate Judge.⁸ Accordingly, plaintiff's motion for re-hearing of the recusal issue is DENIED as moot.

Finally, in the motion for leave to amend his complaint, plaintiff seeks to address some of the issues raised in Capital One's motion to dismiss though the filing of the amended complaint. Upon consideration, the motion for leave to amend is

⁵ See doc. no. 33 (Defendant Capital One Bank (USA), N.A.'s Response in Opposition to Motion); doc. no. 16 (Notice of Objection and Opposition to Defendant's Request for Extension of Time to File Responsive Pleading to Plaintiff's Complaint).

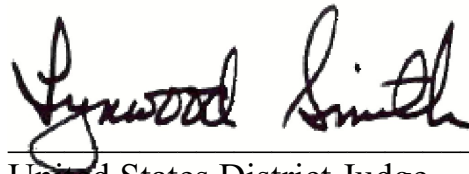
⁶ See doc. no. 14 (Defendant's Motion to Extend Time to Answer or Otherwise Respond to Plaintiff's Complaint); doc. no. 15 (Text Order Granting Defendant's Motion for Extension of Time).

⁷ See doc. no. 30 (Plaintiff's Motion for Recusal); doc. no. 32 (Order Denying Motion for Recusal).

⁸ See doc. no. 43 (Notice of Reassignment).

GRANTED. Plaintiff is ORDERED to file an amended complaint, encompassing all of his claims against all defendants, on or before October 5, 2017. Plaintiff is advised that, upon the filing of an amended complaint, his original complaint will no longer be in effect, and both defendants will have the right to file an answer or other pleading in response to the amended complaint. Capital One's motion to dismiss is DENIED, but without prejudice to Capital One's right to refile the motion, if necessary, in response to the amended complaint.

DONE and **ORDERED** this 22nd day of September, 2017.

A handwritten signature in black ink, appearing to read "Lynwood Smith", is written over a horizontal line.

United States District Judge